

SHB 3147 - H AMD 1522

By Representative Hunter

NOT CONSIDERED 3/11/2010

1 On page 3, beginning on line 20, strike all of subsections (5) and
2 (6) and insert the following:

3 "(5)(a) The exemption provided in this section does not apply to:

4 (i) Any person who has received the benefit of the deferral
5 program under chapter 82.60 RCW on: (A) The construction, renovation,
6 or expansion of a structure or structures used as a computer data
7 center; or (B) machinery or equipment used in a computer data center;
8 and

9 (ii) Any person affiliated with a person within the scope of
10 (a)(i) of this subsection (5). For purposes of this subsection,
11 "affiliated" means that one person has a direct or indirect ownership
12 interest of at least twenty percent in another person.

13 (b) If a person claims an exemption under this section and
14 subsequently receives the benefit of the deferral program under
15 chapter 82.60 RCW on either the construction, renovation, or expansion
16 of a structure or structures used as a computer data center or
17 machinery or equipment used in a computer data center, the person must
18 repay the amount of taxes exempted under this section. Interest as
19 provided in chapter 82.32 RCW applies to amounts due under this
20 section until paid in full.

21 (6) For purposes of this section the following definitions apply
22 unless the context clearly requires otherwise:

23 (a)(i) "Computer data center" means a facility comprised of one
24 or more buildings constructed or refurbished specifically, and used
25 primarily, to house working servers, where the facility has the
26 following characteristics: (A) Uninterruptible power supplies,
27 generator backup power, or both; (B) sophisticated fire suppression

1 and prevention systems; and (C) enhanced physical security, such as:
2 Restricted access to the facility to selected personnel; permanent
3 security guards; video camera surveillance; an electronic system
4 requiring passcodes, keycards, or biometric scans, such as hand scans
5 and retinal or fingerprint recognition; or similar security features.

6 (ii) For a computer data center comprised of multiple buildings,
7 each separate building constructed or refurbished specifically, and
8 used primarily, to house working servers is considered a computer data
9 center if it has all of the characteristics listed in (a)(i)(A)
10 through (C) of this subsection (6).

11 (b) "Electronic data storage and data management services"
12 include, but are not limited to: Providing data storage and backup
13 services, providing computer processing power, hosting enterprise
14 software applications, and hosting web sites. The term also includes
15 providing services such as e-mail, web browsing and searching, media
16 applications, and other online services, regardless of whether a
17 charge is made for such services.

18 (c)(i) "Eligible computer data center" means a computer data
19 center:

20 (A) Located in a rural county as defined in RCW 82.14.370;

21 (B) Having at least twenty thousand square feet dedicated to
22 housing working servers, where the server space has not previously
23 been dedicated to housing working servers; and

24 (C) For which the commencement of construction occurs after March
25 31, 2010, and before July 1, 2011. For purposes of this section,
26 "commencement of construction" means the date that a building permit
27 is issued under the building code adopted under RCW 19.27.031 for
28 construction of the computer data center. The construction of a
29 computer data center includes the expansion, renovation, or other
30 improvements made to existing facilities, including leased or rented
31 space. "Commencement of construction" does not include soil testing,
32 site clearing and grading, site preparation, or any other related
33 activities that are initiated before the issuance of a building permit
34 for the construction of the foundation of a computer data center.

1 (ii) With respect to facilities in existence on the effective
2 date of this section that are expanded, renovated, or otherwise
3 improved after March 31, 2010, an eligible computer data center
4 includes only the portion of the computer data center meeting the
5 requirements in (c)(i)(B) of this subsection (6).

6 (d) "Eligible power infrastructure" means all fixtures and
7 equipment necessary for the transformation, distribution, or
8 management of electricity that is required to operate eligible server
9 equipment within an eligible computer data center. The term includes
10 electrical substations, generators, wiring, and cogeneration
11 equipment.

12 (e) "Eligible server equipment" means the original server
13 equipment installed in an eligible computer data center on or after
14 April 1, 2010, and replacement server equipment. For purposes of this
15 subsection (6)(e), "replacement server equipment" means server
16 equipment that: (i) Replaces existing server equipment, if the sale or
17 use of the server equipment to be replaced qualified for an exemption
18 under this section or section 1803 of this act; and (ii) is installed
19 and put into regular use before April 1, 2018.

20 (f) "Qualifying business" means a business entity that exists for
21 the primary purpose of engaging in commercial activity for profit and
22 that is the owner or lessee of an eligible computer data center. The
23 term does not include the state or federal government or any of their
24 departments, agencies, and institutions; tribal governments; political
25 subdivisions of this state; or any municipal, quasi-municipal, public,
26 or other corporation created by the state or federal government,
27 tribal government, municipality, or political subdivision of the
28 state.

29 (g) "Server" means blade or rack-mount server computers used in a
30 computer data center exclusively to provide electronic data storage
31 and data management services for internal use by the owner or lessee
32 of the computer data center, for clients of the owner or lessee of the
33 computer data center, or both. "Server" does not include personal
34 computers.

1 (h) "Server equipment" means the server chassis and all computer
2 hardware contained within the server chassis. "Server equipment" also
3 includes computer software necessary to operate the server. "Server
4 equipment" does not include the racks upon which the server chassis is
5 installed, and computer peripherals such as keyboards, monitors,
6 printers, mice, and other devices that work outside of the computer."

7
8 Renumber the remaining subsections consecutively and correct any
9 internal references accordingly.

10
11 On page 5, after line 30, insert the following:

12 "(3)(a) The exemption provided in this section does not apply to:
13 (i) Any person who has received the benefit of the deferral
14 program under chapter 82.60 RCW on: (A) The construction, renovation,
15 or expansion of a structure or structures used as a computer data
16 center; or (B) machinery or equipment used in a computer data center;
17 and

18 (ii) Any person affiliated with a person within the scope of
19 (a)(i) of this subsection (3). For purposes of this subsection,
20 "affiliated" means that one person has a direct or indirect ownership
21 interest of at least twenty percent in another person.

22 (b) If a person has received the benefit of the exemption under
23 this section and subsequently receives the benefit of the deferral
24 program under chapter 82.60 RCW on either the construction,
25 renovation, or expansion of a structure or structures used as a
26 computer data center or machinery or equipment used in a computer data
27 center, the person must repay the amount of taxes exempted under this
28 section. Interest as provided in chapter 82.32 RCW applies to amounts
29 due under this subsection (3)(b) until paid in full. A person is not
30 required to repay taxes under this subsection with respect to property
31 and services for which the person is required to repay taxes under
32 section 2(5) of this act."

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1 Renumber the remaining subsections consecutively and
2 correct any internal references accordingly.
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EFFECT: Does not allow a taxpayer to use both the rural sales and
use tax exemption/deferral and the exemption for server equipment.

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